

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 010 - FOLDER 006

[3/29/1996 - 4/24/1996]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Kathleen M. Wallman. Subject: reno interview [partial] (1 page)	03/29/1996	P6/b(6)
002. email	Elena Kagan to Ron Klain. Subject: Invitation. (1 page)	03/30/1996	Personal Misfile
003. email	Elena Kagan to Ron Klain re none (1 page)	03/31/1999	P6/b(6)
004. email	Elena Kagan to Ron Klain. Subject: lunch with Jamie. (1 page)	04/11/1996	Personal Misfile
005. email	Elena Kagan to Elena Kagan. Subject: Appt. request - sabrin, amy [partial] (1 page)	04/15/1996	P6/b(6)
006. email	Elena Kagan to Ron Klain. Subject: seth waxman (1 page)	04/17/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[03/29/1996 - 04/24/1996]

2009-1006-F

wr7

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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001. email	Elena Kagan to Kathleen M. Wallman. Subject: reno interview [partial] (1 page)	03/29/1996	P6/b(6)

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concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 29-MAR-1996 14:08:08.47

SUBJECT: reno interview

TO: Kathleen M. Wallman

(WALLMAN_KM) (WHO)

READ: 29-MAR-1996 16:10:41.75

TEXT:

I'm meeting with reno on Monday. Would you let Jack know that IF he has any advice, along with a free 5 minutes, I'd love to talk with him -- but obviously, he's on vacation, so I in now way expect this. (My tel. numbers are 456-7594 and [REDACTED] If you have any advice, I'd love to talk with you too. Think on it and call me. Many thanks.

[001]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 08:22:34.98

SUBJECT: our favorite subject

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:29-MAR-1996 10:03:59.48

TEXT:

by the by, i know you won't -- but i just wanted to remind you that you
shouldn't -- let marvin know that i told you what he said about steve.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 12:18:10.74

SUBJECT: RE: Campaign Lobbying refomr letter

TO: Leanne Johnson (JOHNSON_L) (WHO)

READ:29-MAR-1996 12:21:03.61

TEXT:
looks good to me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 10:20:43.87

SUBJECT: meeting today

TO: John O. Sutton (SUTTON_J) (WHO)

READ:29-MAR-1996 10:21:50.32

TEXT:

when and where is the meeting with owens-corning?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 10:23:03.17

SUBJECT: RE: meeting today

TO: John O. Sutton (SUTTON_J) (WHO)

READ:29-MAR-1996 10:23:22.64

TEXT:
sure

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:29-MAR-1996 12:18:00.00

SUBJECT: Receipt Notification

TO: JOHNSON_L (WHO)

READ:29-MAR-1996 12:22:09.31

TEXT:

This is a Read Receipt Notification for:

Message Title: Campaign Lobbying refomr letter
Addressee: KAGAN_E
Date Sent: 29-Mar-1996 11:27am
Date Read: 29-Mar-1996 12:18pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 08:30:55.97

SUBJECT: hatfield letter

TO: Dinah Bear (BEAR_D) (CEQ)

READ:29-MAR-1996 08:52:43.08

TEXT:

I just read you hatfield letter. it's extremely good. what, if anything, is going on? did you hear anything about the meeting yesterday afternoon?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-MAR-1996 08:34:04.71

SUBJECT: hj res 168

TO: Jeffrey A. Weinberg (WEINBERG_J) (OMB)

READ:29-MAR-1996 08:49:28.88

TEXT:

We have no problem with DOJ's proposed signing statement on HJ Res 168.

Withdrawal/Redaction Marker

Clinton Library

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002. email	Elena Kagan to Ron Klain. Subject: Invitation. (1 page)	03/30/1996	Personal Misfile

COLLECTION:

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Automated Records Management System [Email]
Who ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[03/29/1996 - 04/24/1996]

2009-1006-F

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WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

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RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 10:47:31.96

SUBJECT: timber meeting

TO: Ron Klain

(KLAIN_R) Autoforward to: Remote Addressee

READ:NOT READ

TEXT:

Because of my interview with the Attorney General, I won't be at today's timber meeting. Kathy doesn't know all that much about the legal arguments, so you should be sure to provide backup.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 17:53:03.59

SUBJECT: reno

TO: Ron Klain

(KLAIN_R) Autoforward to: Remote Addressee

READ:NOT READ

TEXT:

It was short (not much more than 15 minutes), but I thought pretty good. She called Mikva 10 minutes after I left; I don't think they've managed to connect yet. I'll provide further details (assuming you wish to hear them) whenever convenient for you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 15:17:00.31

SUBJECT: meeting

TO: Dorothy L. Karayannis (KARAYANNIS_D) (OPD)

READ: 1-APR-1996 15:30:46.86

TEXT:

anytime after 10. thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 14:55:30.93

SUBJECT: products statement

TO: Todd Stern (STERN_T) (WHO)

READ: 1-APR-1996 15:09:36.22

TEXT:

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 16:41:25.82

SUBJECT: timber stuff

TO: Christine L. Nolin (NOLIN_CL) (OMB)

READ: 1-APR-1996 16:42:18.64

TEXT: .

I'm ok with all of it. If there are any significant changes, let me know.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 15:01:15.94

SUBJECT: products statement

TO: Todd Stern

(STERN_T) (WHO)

READ: 1-APR-1996 15:09:43.55

TEXT:

This is a new version, with a change that Bruce wanted and that I had forgotten to put in. (It doesn't have to be recirculated, as long as you use this one.)

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 1-APR-1996 14:59:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_COURIER

To the House of Representatives:

I am returning without my approval H.R. 956, the so

-called

Common Sense Product Liability Legal Reform Act of 1996.

I support real common sense product liability reform at the Federal level. To deserve this label, however, legislation must adequately protect the interests of consumers harmed by defective products, in addition to the interests of manufacturers and sellers. Further, legislation must respect the important role of the States in our Federal system. Congress could have passed legislation, appropriately limited in scope and balanced in application, meeting these tests. Had Congress done so, I would have signed the bill gladly; were Congress to do so now, I would be delighted. But Congress instead chose to pass legislation unfairly weighted against consumers and unduly infringing on the States, thus dis-serving the goal of real common sense reform.

H.R. 956 represents an unwarranted intrusion on state authority, in the interest of shielding manufacturers and sellers of harmful products. Tort law traditionally has been a matter for the States, rather than for Congress. The States have handled this responsibility well, serving as laboratories for new ideas and making needed reforms. This bill unduly interferes with that process -- and does so in a way that peculiarly disadvantages consumers. As a rule, this bill displaces state law only when that law is more favorable to consumers; it allows state law to remain in effect when that law is more helpful to manufacturers and sellers. I cannot accept a law that rejects state authority in the tort field so as to tilt the legal playing field against consumers and in favor of manufacturers and sellers.

Apart from the general structure of the bill, specific provisions of H.R. 956 unfairly disadvantage consumers. These provisions would prevent even horribly injured persons -- including some who may be elderly, poor, or non

-working women --

from recovering the full measure of their damages. And these provisions would encourage the worst kind of conduct on the part

of manufacturers and sellers, such as knowingly introducing injurious products into the stream of commerce.

In particular, I object to the following provisions of the bill, which subject consumers to too great a risk of harm from defective products:

First, as I previously have stated, I oppose wholly eliminating joint liability for noneconomic damages (most notably, pain and suffering), because such a change would prevent many persons from receiving full compensation for injury. When

one wrongdoer goes bankrupt -- as companies that sell or manufacture harmful products often do -- the other wrongdoers, and not the innocent victim, should have to shoulder its part of the judgment. Traditional law accomplishes just this result. In contrast, this bill would relieve other wrongdoers of their obligation to pay the bankrupt company's part of the noneconomic loss, thus leaving the victim to bear these damages on her own. So, for example, the victim of asbestos, a breast implant, or an intra

-uterine device would have gone partly uncompensated under this bill, because in cases involving these products one wrongdoer was bankrupt and others would have had no obligation to pick up the bankrupt company's portion of the victim's noneconomic harm.

What makes this provision all the more troubling is that it severely and unfairly discriminates against the most vulnerable members of our society. Because it applies to noneconomic, but not to economic damages, it most deeply cuts into the damage awards of people without large amounts of lost income. Thus, this provision disproportionately affects the elderly, the poor, and nonworking women. There is no reason for this kind of discrimination. Noneconomic damages are as real and as important to victims as economic damages. We should not create a tort system in which people with the greatest need of compensation stand the least chance of receiving it.

Second, as I also have stated, I oppose arbitrary ceilings on the amount of punitive damages that may be awarded in a product liability suit, because they endanger the safety of the consuming public. The purpose of punitive damages is to punish and deter egregious conduct, such as the deliberate manufacture and sale of defective products. Capping punitive damages increases the incentive to engage in such misconduct; it invites those companies willing to put economic gain above all else simply to weigh the costs of wrongdoing against potential profits. The provision of the bill allowing judges to exceed the cap if certain factors are present helps to mitigate, but does not cure this problem, given the clear intent of Congress, as expressed in the Statement of Managers, that judges should use this authority only in the rarest of circumstances.

In addition, I am concerned that the Conference Report fails to fix an oversight in Title II of the bill, which limits actions against suppliers of materials used in devices implanted in the body. In general, Title II is a laudable attempt to ensure the continued supply of materials needed to manufacture life

-saving medical devices, such as artificial heart valves. But as I believe even many supporters of the bill agree, a supplier of materials who knew or should have known that the materials, as implanted, would cause injury should not receive any protection

from suit. Title II's protections must be clearly limited, as I

hope and believe was Congress's intent, to non

-negligent
suppliers.

These defects alone would justify a veto, as I have stated before. But Congress, not content with a bad bill, enacted yet a worse bill, by taking several steps back from the version passed in the Senate and toward the one approved by the House.

Most critically, the Conference Reports expands the scope of the bill, inappropriately applying the limits on punitive and noneconomic damages to negligent entrustment actions -- lawsuits, for example, against a gun dealer who knowingly sells a gun to a convicted felon, who then uses it to shoot someone, or against a bar owner who knowingly serves a drink to an obviously inebriated customer, who then drives drunk and causes death or injury. I believe that lawsuits such as these should go forward unhindered. So too do such groups as Mothers Against Drunk Driving and the Coalition to Stop Gun Violence, a coalition of 44 organizations dedicated to the reduction of gun violence. Congress was simply getting greedy when, at the last minute and for no reason, it included lawsuits of this kind within the scope of the bill.

In addition, the Conference Report makes certain changes that though sounding technical, may completely cut off a victim's ability to sue a guilty manufacturer. The Report deletes a provision that would have stopped the statute of limitations from running when a bankruptcy court issues the "automatic stay" that prevents lawsuits from being filed during bankruptcy proceedings. The effect of this change will be that some persons injured by companies that have entered bankruptcy proceedings will lose any meaningful opportunity to bring valid claims. Given the frequency with which companies sued for manufacturing defective products go into bankruptcy -- think again of manufacturers of breast implants or asbestos or intra

-uterine devices -- this seemingly legalistic change may have dramatic consequences.

Similarly, the Conference Report reduces the statute of repose from twenty years to a maximum of fifteen years (and less if states so provide), and applies the statute to a much wider range of goods, including handguns. This change, which prevents a person from bringing suit against a manufacturer of an older product even if the product has just recently caused injury, also will preclude many meritorious lawsuits.

Consider two hypothetical cases, as a demonstration of how these provisions operate in combination to prevent injured people from receiving the compensation to which they are entitled.

In the first, the mother of a boy killed in a driveby shooting sues the gun dealer who knowingly sold a handgun to a

person formerly convicted of a crime of violence. Under current law in most states, the dealer (assuming, as is commonly true, that the shooter himself has no money) would pay damages equal to all the mother's economic and noneconomic damages, regardless of how these damages were allocated as between the dealer's and the shooter's misconduct; perhaps the dealer also would pay punitive damages for the egregious nature of his act. Under this bill, by contrast, the mother would have less chance of receiving an award of punitive damages sufficient to deter future misconduct. Still worse, she would receive no damages for any of her noneconomic loss, including pain and suffering, that the jury attributed to the shooter. Given that the majority of her damages would arise from pain and suffering (not economic injury) and that the jury would have allocated some substantial part of this amount to the

judgment

-proof shooter, her total damage award would be but a fraction of what current law would give her. And if the gun causing the injury were an old model, thus triggering the statute of repose, the mother would receive no damages whatsoever.

In the second case, a woman suffering severe injury from a breast implant sues both the manufacturer of the implant and the supplier of its silicone gel, both of whom knew that the product could cause injury. Under current law, both wrongdoers would be liable for the harm the woman suffered; more, if one wrongdoer could not pay its portion of the judgment, the other would make up the difference. But this would not be true under H.R. 956. If this bill were enacted, even the best case scenario would be appalling: the supplier, though knowing its product posed danger, would be immune from suit, and the portion of noneconomic (pain and suffering) damages allocated to it would be lost to the woman. In addition, the manufacturer, no matter how intentional its decision to implant a harmful product, might benefit from the bill's cap on punitive damages. But there would be a worse case scenario, which very well could happen. If the manufacturer of the implant entered bankruptcy, no defendant would be left to pay the woman's damages, let alone to make a punitive award deterring future misconduct. One wrongdoer would have immunity, the other insufficient resources; as a result, the innocent injured woman would bear the full cost of the harm. In short, a woman who under current law would receive full compensation and perhaps punitive damages, under H.R. 956 would get absolutely nothing.

This example, indeed, is more than a hypothetical. There are identifiable injured women today facing situations that are substantially similar to the one I have just described. Their prospects of recovering anything at all for the harm caused by ruptured implants would decrease dramatically if H.R. 956 became law.

I cannot believe that even the supporters of the Conference

Report would sanction these results. Real people with real injuries cannot be left to suffer in this fashion; more, the companies that cause these injuries cannot be left, through lack of a deterrent, to wreak further harm. I therefore must return the bill that has been presented to me. There is nothing "common sense" about its "reforms" to the law of product liability.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 1-APR-1996 10:50:00.00

SUBJECT: Receipt Notification

TO: COOK_MY (OMB)

READ: 1-APR-1996 10:51:03.92

TEXT:

This is a Read Receipt Notification for:

Message Title: LRM #3853, VA Report on RH 2401

Addressee: KAGAN_E

Date Sent: 01-Apr-1996 10:50am

Date Read: 01-Apr-1996 10:50am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 15:30:57.33

SUBJECT: lrm 3694

TO: Melissa Y. Cook (COOK_MY) (OMB)

READ: 1-APR-1996 16:10:08.83

TEXT:

did justice comment on this lrm?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-APR-1996 10:18:32.17

SUBJECT: RE: veto gal

TO: Todd Stern (STERN_T) (WHO)

READ: 1-APR-1996 10:19:07.06

TEXT:

ten minutes

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 2-APR-1996 15:30:00.00

SUBJECT: Receipt Notification

TO: JONES_RE (OMB)

READ: 2-APR-1996 17:36:00.95

TEXT:

This is a Read Receipt Notification for:

Message Title: LRM #:3966 Proposed Statement of Administration Policy RE:

Addressee: KAGAN_E

Date Sent: 02-Apr-1996 01:35pm

Date Read: 02-Apr-1996 03:30pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 2-APR-1996 15:39:50.27

SUBJECT: bank case

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ: 2-APR-1996 17:04:20.76

TEXT:

could you send me a copy? many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 2-APR-1996 15:35:14.38

SUBJECT: RE: You had previously asked about this; I assume you know...

TO: Stephen R. Neuwirth (NEUWIRTH_S) (WHO)

READ: 2-APR-1996 15:50:31.39

TEXT:

many thanks

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 2-APR-1996 15:44:34.44

SUBJECT: timber

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ: 2-APR-1996 18:39:40.26

TEXT:

We're supposedly getting the brief (and an accompanying memo) close of business today.

The letter to the purchaser was rewritten today by Katie. I'm trying to get a copy.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 2-APR-1996 10:36:55.85

SUBJECT: yet another version

TO: Todd Stern (STERN_T) (WHO)

READ: 2-APR-1996 13:55:22.28

TEXT:

Attached is yet another version of the products veto statement, with a couple of changes suggested by the legislative affairs folks and Ellen Seidman. Sorry to keep doing this to you. You should ask me about my interview with reno sometime.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 2-APR-1996 10:34:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_ROMAN

CHANGES TO ORIGINAL 1995 MEDICAID PROPOSAL

FINANCING: MOVING TOWARDS THE GOVERNORS

? Original Position: Per capita cap that adjusts federal support as enrollment increases or declines. A 33 percent Disproportionate Share Hospital (DSH) cut with no hold harmless provision and no specifics as to how dollars were used.

? Compromise Position: Adopts the National Governors' Association (NGA) financing formula, with some modifications to assure CBO scoring. Unlike the per capita cap, this approach provides a hold harmless provision that ensures that states can keep their base allotment (they get to choose from the best of 1993, 1994, or 1995), even if they decrease the Medicaid recipient enrollment below levels of their base year. Institutes a DSH hold harmless provision and targets dollars to facilities disproportionately serving the uninsured and other needy hospitals defined by the states.

ELIGIBILITY: EXPANDING STATE FLEXIBILITY

? Original Position: Maintained current law that prohibited states from rolling back their optional expansions of kids and pregnant women to mandatory poverty/coverage levels. In addition, required that states maintain current federal disability eligibility definition requirements.

? Compromise Position: Gives states the authority to roll back optional coverage of kids to minimum poverty/coverage levels and substitutes the disability eligibility reforms included in the bipartisan welfare bill, (which no longer requires states to cover alcoholics, chemical and substance abusers and some SSI kids.)

BENEFITS: REDUCING COSTS AND TARGETING ABUSES

? Original Position: Maintained current law requirements.

? Compromise Position: Provides states the authority to apply nominal copayments for Medicaid HMO coverage. Also, to address concerns about EPSDT benefit abuses, authorizes the Secretary to limit inappropriately utilized benefits.

ENFORCEMENT: DECREASING LITIGATION AND COSTS

? Original Position: Restructured, but did not totally repeal the Boren amendment. Retained individuals' current access to Federal court system.

? Compromise Position: Totally repeals the Boren amendment and requires that all state administrative appeals be exhausted prior to any court appeal on eligibility or benefits disputes.

FLEXIBILITY TO INCREASE COVERAGE WITHOUT WAIVERS

? Original Position: Although the President's June, 1995 proposal did eliminate the federal waiver process for managed care and home and community based alternatives, states that achieved savings through the new flexibility provisions could not plow those savings back into targeted coverage expansions without a federal waiver.

? Compromise Position: Empowers states to use Medicaid savings to provide coverage for any population up to 150 percent of poverty without a federal waiver. (As a result, states can either pocket the savings or use it to expand coverage to any population it wants provided they are under specified poverty threshold.)

SAVINGS INCREASE EVEN AS CBO MEDICAID BASELINE DECLINES

? Original Position: \$54 billion off of a much higher CBO Medicaid baseline.

? Compromise Position: \$59 billion off of the new CBO Medicaid baseline, which is over \$25 billion lower than the December CBO Medicaid baseline and \$55 billion lower than the baseline used to score the budget proposals passed by the Congress in 1995.

(These policies move the formula closer to the NGA, Coalition and Breaux/Chafee financing mechanism.)

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 3-APR-1996 11:05:47.66

SUBJECT: RE: Veto message on Product Liability

TO: Jeffrey A. Weinberg (WEINBERG_J) (OMB)

READ: 3-APR-1996 11:08:16.10

TEXT:

Yes, he did. He had some extremely big picture concerns, having to do with how hard-hitting we wanted to be. I believe we are going to keep the statement as is.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 3-APR-1996 11:04:04.37

SUBJECT: RE: URGENT!!! Change in POTUS PHOTO

TO: Marna E. Madsen (MADSEN_M) (WHO)

READ: 3-APR-1996 11:07:34.74

TEXT:

i can do that.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 3-APR-1996 11:04:00.00

SUBJECT: Receipt Notification

TO: MADSEN_M (WHO)

READ: 3-APR-1996 11:07:39.12

TEXT:

This is a Read Receipt Notification for:

Message Title: URGENT!!! Change in POTUS PHOTO

Addressee: KAGAN_E

Date Sent: 03-Apr-1996 10:30am

Date Read: 03-Apr-1996 11:04am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 4-APR-1996 11:48:00.00

SUBJECT: Receipt Notification

TO: MADSEN_M (WHO)

READ: 4-APR-1996 12:23:28.44

TEXT:

This is a Read Receipt Notification for:

Message Title: Photo op
Addressee: KAGAN_E
Date Sent: 03-Apr-1996 04:23pm
Date Read: 04-Apr-1996 11:48am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 4-APR-1996 11:48:00.00

SUBJECT: Receipt Notification

TO: COOK_MY (OMB)

READ: 4-APR-1996 12:01:51.40

TEXT:

This is a Read Receipt Notification for:

Message Title: OPM Draft Bill on OSC Amendment -- CORRECTION

Addressee: KAGAN_E

Date Sent: 03-Apr-1996 04:02pm

Date Read: 04-Apr-1996 11:48am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 4-APR-1996 14:50:00.00

SUBJECT: Receipt Notification

TO: JONES_RE (OMB)

READ: 4-APR-1996 15:54:40.74

TEXT:

This is a Read Receipt Notification for:

Message Title: LRM #:3982 TRANSPORTATION Proposed Report RE: S735,
Addressee: KAGAN_E
Date Sent: 04-Apr-1996 02:45pm
Date Read: 04-Apr-1996 02:50pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 5-APR-1996 17:41:13.78

SUBJECT: contract etc.

TO: Martha Foley (FOLEY_M) (WHO)

READ: 5-APR-1996 17:41:21.65

TEXT:

I'm kind of concerned about point 7 also, especially in relation to points 3 and 4. If there's no agreement on the appraisal or the cruise reports, what happens? Will substitute units then be made available? Even if "made available," will the purchaser have to accept them? Or could cutting in the existing units continue? Likewise, if disagreement on these matters becomes apparent later, can the purchaser resume cutting the existing units? There seems at least a possibility that in the absence of agreement on the appraisal and cruise reports, the purchaser can either continue or resume cutting in the existing units. If so, it becomes very important to know the likelihood of disagreement on these issues. And the better approach would seem to be to cease cutting while agreement on these issues is (or is not) reached. (Of course, the purchaser may find that approach unacceptable.) I've passed these concerns on to Dinah, and then we both passed them on to Brian Burke. Maybe there are answers to these questions, but no one seems to know them.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 5-APR-1996 15:46:34.61

SUBJECT: abortion veto statement

TO: Todd Stern (STERN_T) (WHO)

READ: 5-APR-1996 15:51:24.52

TEXT:

attached is a new version of the abortion veto statement, with a change precipitated by an olc complaint.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 5-APR-1996 15:43:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_COURIER

Veto Message for H.R. 1833

I am returning without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. In refusing to permit women to avail themselves of this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is surely unconstitutional, just as it is surely contrary to sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in Roe v. Wade protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late

-term

abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non

-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. Medical conditions can develop at a stage in the pregnancy such that the use of this procedure becomes the best or the only feasible way of preserving the life or the serious health interests of the woman, including her ability to have children in the future. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure

be protected.

I cannot sign H.R. 1833, as drafted, because it fails to protect women in such dire circumstances -- because by treating doctors who use the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

I earlier proposed to Congress that it pass appropriate legislation regarding this procedure. I told Congress that I would support H.R. 1833 if it were amended to make clear that the prohibition did not apply to situations in which the selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse health consequences to the woman. A bill amended in this way would have struck a proper balance, reserving this troubling procedure for those rare circumstances where it is necessary.

Congress chose not to take this sensible and constitutionally appropriate path, instead either ignoring or trivializing concerns about protecting women from serious health risks. As a result of this Congressional indifference to women's health and safety, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.
===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 5-APR-1996 15:42:26.28

SUBJECT: meeting

TO: Cheryl L Sweitzer (SWEITZER_C) (WHO)

READ: 8-APR-1996 09:40:28.68

TEXT:

Jack, Kathy and I were supposed to have a meeting last wednesday on abortion coverage for federal employees. Jack had to cancel. can we reschedule?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 8-APR-1996 12:28:22.54

SUBJECT: meeting

TO: Jennifer L. Klein (KLEIN_J) (OPD)

READ: 8-APR-1996 13:37:56.45

TEXT:
tomorrow at 3:00; my office

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 8-APR-1996 12:29:02.32

SUBJECT: that letter

TO: Todd Stern (STERN_T) (WHO)

READ: 8-APR-1996 12:30:04.94

TEXT:

Is it OK to use a fetal deformity case as the example?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 9-APR-1996 16:27:56.52

SUBJECT: letters to hickey and kammer

TO: Todd Stern (STERN_T) (WHO)

READ: 9-APR-1996 16:28:10.23

TEXT:

look good, except for the reference to "partial birth" in the one to Kammer.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 9-APR-1996 12:41:28.90

SUBJECT: op eds

TO: Jennifer L. Klein (KLEIN_J) (OPD)

READ: 9-APR-1996 12:52:26.12

TEXT:

Let me know when you've read the op eds. I'd like to talk with you about which should be included -- and also who should be invited.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:10-APR-1996 14:03:42.11

SUBJECT: RE: returning your call

TO: Lisa Ross (ROSS_LI) (WHO)

READ:10-APR-1996 14:17:46.81

TEXT:

yes; just let me know the time as soon as you can.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:10-APR-1996 11:35:00.00

SUBJECT: Receipt Notification

TO: BENAMI_J (WHO)

READ:10-APR-1996 11:36:21.42

TEXT:

This is a Read Receipt Notification for:

Message Title: 3:00 meeting
Addressee: KAGAN_E
Date Sent: 10-Apr-1996 11:19am
Date Read: 10-Apr-1996 11:35am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:10-APR-1996 12:50:51.52

SUBJECT: RE: addendum

TO: Deborah L. Fine (FINE_D) (OPD)

READ:10-APR-1996 12:51:42.87

TEXT:

all of this is aok with me. Who is the doctor?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:10-APR-1996 09:11:17.77

SUBJECT: meeting

TO: Cheryl L Sweitzer (SWEITZER_C) (WHO)

READ:10-APR-1996 09:35:37.84

TEXT:

please let jack know i won't be at the 9:30 staff meeting this morning because
of a meeting on the abortion veto at the same time.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:10-APR-1996 12:51:41.48

SUBJECT: forawrding e-mail

TO: Todd Stern (STERN_T) (WHO)

READ:10-APR-1996 19:57:10.78

TEXT:

beautifully written, no less.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:10-APR-1996 12:39:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Deborah L. Fine

ATT SUBJECT: addendum

ATT TO: Nicole R. Rabner (RABNER_N)

ATT TO: Jennifer L. Klein (KLEIN_J)

ATT TO: Jeremy D. Benami (BENAMI_J)

ATT TO: Katharine M. Button for verveer (BUTTON_K)

ATT TO: Betsy Myers (MYERS_B)

ATT TO: Ashley Oliver for gold (OLIVER_A)

ATT TO: John P. Hart (HART_J)

ATT TO: Barbara D. Woolley (WOOLLEY_B)

ATT TO: Elena Kagan (KAGAN_E)

TEXT:

In addition to the materials mentioned in the previous e mail on the packet, there is apparently a beautifully written letter to Cardinal Hickey from the President that is in the process of being finalized that Melanne, John Hart, and Mary Ellen Glynn would like to include in the packet.

Please get back to me about all of the documents mentioned.

Thanks.

===== END ATTACHMENT 1 =====

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. email	Elena Kagan to Ron Klain. Subject: lunch with Jamie. (1 page)	04/11/1996	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[03/29/1996 - 04/24/1996]

2009-1006-F

wr7

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:11-APR-1996 09:49:06.43

SUBJECT: hjr 159

TO: Jeffrey A. Weinberg (WEINBERG_J) (OMB)

READ:11-APR-1996 09:53:02.68

TEXT:

The sap looks fine.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:11-APR-1996 09:38:31.87

SUBJECT: chris cerf's work

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:11-APR-1996 10:43:06.77

TEXT:

With the veto of the partial birth bill and the end of the regulatory reform controversy, I actually have some time. Of course I'd love to pick up the tobacco work, but I'm sure so would everyone else. Otherwise, in no particular order: foia reform, striker replacement and immigration EOs, legal service corporation, and FAA independence. And if you think it might be good to give me a kind of work that's more "routine," I'd be happy to take over the personal security office.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:11-APR-1996 17:57:47.77

SUBJECT: agreement

TO: Elisabeth Blaug (BLAUG_E) (CEQ)

READ:11-APR-1996 18:04:21.91

CC: Dawn Chirwa (CHIRWA_D) (WHO)

READ:11-APR-1996 19:09:55.15

TEXT:

This looks fine to me.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 11-APR-1996 17:26:51.98

SUBJECT: RE: Kudos

TO: Jeremy D. Benami (BENAMI_J) (WHO)

READ: 12-APR-1996 09:20:16.48

TEXT:

Ditto, ditto. Really.

I must say I feel the most enormous sense of relief that this is all over!

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:11-APR-1996 09:28:35.01

SUBJECT: off on friday

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:11-APR-1996 10:42:23.20

TO: Cheryl L Sweitzer (SWEITZER_C) (WHO)

READ:11-APR-1996 10:28:37.94

TEXT:

I'll be in Chicago on Friday and through the weekend. I'm reachable on Friday through the Univ. of Chicago Law School, 312-702-9494. I'm staying at the Mariott Courtyard, 312-329-2500.

Kathy: does it make sense for me to take your sky pager again?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 15-APR-1996 11:51:00.00

SUBJECT: Receipt Notification

TO: SCHROEDER_I (OMB)

READ: 15-APR-1996 12:34:00.74

TEXT:

This is a Read Receipt Notification for:

Message Title: Immigration Letters

Addressee: KAGAN_E

Date Sent: 15-Apr-1996 11:48am

Date Read: 15-Apr-1996 11:51am

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. email	Elena Kagan to Elena Kagan. Subject: Appt. request - sabrin, amy [partial] (1 page)	04/15/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[03/29/1996 - 04/24/1996]

2009-1006-F

wr7

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or
financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President
and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of
personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed
of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C.
2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of
an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial
information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of
personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement
purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of
financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information
concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (WAVES REQUEST)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 15-APR-1996 10:41:05.00

SUBJECT: Appt. request - sabrin, amy

TO: Elena Kagan (KAGAN_E) (WHO)
READ: NOT READ

TEXT:

Date Appointment with
15-Apr-1996 QUINN, JOHN M

[005]

Room No. Bldg.	Requested by	Phone #
2FL/WW WH	Elena Kagan	456-7594

Comments:

TIME	VISITOR'S LAST, FIRST NAME	BIRTHDATE	SOC. SEC. #
01:15pm	sabrin amy	PO(b)(6)	- -

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:15-APR-1996 11:50:09.10

SUBJECT: RE: Immigration Letters

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)

READ:15-APR-1996 11:54:07.29

TEXT:

I have given these to Steve Neuwirth in the Counsel's office.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-APR-1996 13:59:05.93

SUBJECT: RE: timber meeting

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)

READ:16-APR-1996 17:07:14.63

TEXT:
you bet

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-APR-1996 08:57:18.15

SUBJECT: timber meeting

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)

READ:16-APR-1996 12:57:42.80

TEXT:

Today at 4:00 at CEQ. Participants will be John Dwyer (from John Schmidt's office), Lois (I think), some line attorneys in Lois' division, Dinah, and me. I don't know if anyone from USDA will be there. I hope and think not.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-APR-1996 12:38:41.54

SUBJECT: RE: FYI -- on Tongass...

TO: Martha Foley (FOLEY_M) (WHO)

READ:16-APR-1996 13:12:52.27

TEXT:

I'd like to know some more facts. But if the court refused to enter a negotiated consent decree containing injunctive relief (which it sounds as if the court did here) -- then, yes, that's immediately appealable.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-APR-1996 13:59:30.78

SUBJECT: RE: FYI -- on Tongass...

TO: Martha Foley (FOLEY_M) (WHO)

READ:16-APR-1996 15:18:08.54

TEXT:

will do.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. email	Elena Kagan to Ron Klain. Subject: seth waxman (1 page)	04/17/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[03/29/1996 - 04/24/1996]

2009-1006-F

wr7

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:17-APR-1996 10:06:00.36

SUBJECT: tribes

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)

READ:17-APR-1996 10:25:05.99

TEXT:

I just told Leshy that Interior shouldn't issue this press release yet. He asked me to let people know (1) that Interior is getting beseiged on this issue and feels it needs to do something quickly and (2) that Babbitt has been indicating to people (including some tribal leaders yesterday) that Interior is planning on taking the ANPR approach.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:17-APR-1996 15:41:25.80

SUBJECT: RE: English-only

TO: Stephen C. Warnath (WARNATH_S) (OPD)

READ:17-APR-1996 15:42:04.10

TEXT:

whatever you think would be helpful would be great.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:17-APR-1996 19:19:45.01

SUBJECT: tongass

TO: Martha Foley

(FOLEY_M) (WHO)

READ:17-APR-1996 21:02:17.57

TEXT:

Dinah tells me that the judge didn't formally deny the negotiated settlement agreement. Instead, he said that while he was reviewing the agreement, the parties should return to the bargaining table, along with the industry intervenors (who weren't parties to the settlement), to discuss whether there was another, different settlement they wished to offer. This is very bizarre, probably inappropriate judicial behavior, but not immediately appealable. Dinah says he asked the parties to give him a report on their further negotiations by 7:00 this evening.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:17-APR-1996 11:14:50.29

SUBJECT: proposed one-pager

TO: Todd Stern (STERN_T) (WHO)

READ:17-APR-1996 14:28:37.57

TEXT:

Here it is. I'm bringing over a hard copy.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:17-APR-1996 11:14:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_COURIER

TALKING POINTS ON H.R. 1833

? The President vetoed H.R. 1833 because the bill fails to protect women from serious threats to their health, as both the Constitution and sound public policy require.

? The procedure described in the bill troubles the President deeply. He does not support use of that procedure on an elective basis, where it is not necessary to save the life of the mother or prevent serious injury to her health.

? But this bill went too far because it would ban use of the procedure even when it is the only or best hope of saving the woman's life or averting a serious threat to her health, including her ability to have children in the future.

? Before vetoing this bill, the President heard from women who desperately wanted babies, who were devastated to learn that their babies had fatal conditions, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best hope of preventing death or grave harm, including the loss of reproductive capability. For these women and others, this was not about choice. These babies were certain to perish, and the only question was how much grave harm was going to be done to the woman.

? Criminalizing use of the procedure in such cases, where women and their families must make a tragic choice, poses a danger of grave harm to women. Such a prohibition violates the requirements of the Constitution. More, preventing the use of this procedure in such cases is the true inhumanity.

? That is why the President implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the physician, is necessary to preserve the life of the woman or avert serious adverse consequences to her health. A bill amended in this way would have struck a proper balance, remedying the constitutional and human defect of H.R. 1833.

? The charge that the President's proposed exemption would have swallowed the general ban is absurd. The President's exemption would have applied only when there is serious harm to health. Surely Congress can write legislation making clear that serious harm to health means just that -- that it doesn't include, as some have suggested, youth, low income, or unhappiness. Attacks such as this trivialize profoundly tragic situations. All one needs to do is to listen to some

of the women who have had this procedure to understand what kind of harm the President is talking about.

? The President will sign a bill amended as he has suggested. He will not sign a bill manifesting, as this one does, complete indifference to the health of women.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-APR-1996 12:23:05.47

SUBJECT: new paragraph

TO: Todd Stern (STERN_T) (WHO)

READ:18-APR-1996 14:36:58.60

TEXT:

How about the following:

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer to this question comes not from politicians, or even from religious leaders, but from the medical community, which broadly supports the continued availability of this procedure in cases where a woman's serious health interests are at stake. In those rare cases, I believe the woman's doctors should have the ability to determine, in the best exercise of their medical judgment, that the procedure is indeed necessary.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-APR-1996 16:18:32.28

SUBJECT: RE: product liability

TO: Jeff P. Dailey (DAILEY_J) (WHO)

READ:18-APR-1996 16:18:52.87

TEXT:

as far as i know, Congress hasn't sent the bill to the President.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-APR-1996 09:27:42.47

SUBJECT: abortion stuff

TO: Todd Stern (STERN_T) (WHO)

READ:18-APR-1996 09:32:51.06

TEXT:

Could you ask Carol to fax me the final version of the letter, along with the cover memo you sent to the President? Many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-APR-1996 18:28:40.01

SUBJECT: RE: talking points

TO: Deborah L. Fine (FINE_D) (OPD)

READ:18-APR-1996 18:32:35.26

TEXT:

many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-APR-1996 09:29:49.53

SUBJECT: timber meeting

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)

READ:18-APR-1996 12:04:36.26

TEXT:

I understand that today's 4:30 meeting is to talk about alternative timber -- how much we have, where it is, whether it has to comply with environmental law, and so forth. Representatives from the affected agencies, as well as white house folks, will be there.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 19-APR-1996 09:49:23.01

SUBJECT: Re: seth waxman

TO: CN=Ron Klain/O=OVP

(CN=Ron Klain/O=OVP@OVP@LNGATE@EOPMRX)

READ: NOT READ

TEXT:

Sunday brunch? I may (though may not) be away next weekend, but if this weekend is too full for you, let's just keep it on hold.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:19-APR-1996 09:50:06.93

SUBJECT: RE: Reminder - Comments on LRM 40002 Due

TO: Anna M. Briatico (BRIATICO_A) (OMB)

READ:19-APR-1996 09:59:35.57

TEXT:

I don't think i got this one. could you send me another? thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:19-APR-1996 10:13:00.00

SUBJECT: Receipt Notification

TO: BRIATICO_A (OMB)

READ:19-APR-1996 10:18:44.79

TEXT:

This is a Read Receipt Notification for:

Message Title: Reminder - Comments on LRM 40002 Due
Addressee: KAGAN_E
Date Sent: 19-Apr-1996 09:45am
Date Read: 19-Apr-1996 10:13am

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:20-APR-1996 09:07:24.41

SUBJECT: new version

TO: Todd Stern (STERN_T) (WHO)

READ:20-APR-1996 09:09:44.19

TEXT:

with edits on my questions.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:20-APR-1996 09:06:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_ROMAN

QUESTIONS AND ANSWERS ON HR 1833

FOR INTERNAL USE ONLY

Why did President Clinton veto the "late

-term" abortion bill?

The President vetoed HR1833 because it fails to protect women against serious threats to their health, as the Constitution and humane public policy require.

The procedure described in the bill troubles the President, and he does not support its use on an elective basis. Indeed, he has opposed all late

-term abortions except where necessary to preserve the life or serious health interests of the woman. But the President believes this procedure must be available in cases where it is necessary to save a woman's life or avert a serious threat to her health, including her ability to have children in the future. In considering whether he would sign this bill, the President heard from women, carrying babies with fatal conditions, who desperately needed this procedure to ensure that they themselves would not suffer serious injury. The President believes such women -- for whom the procedure is not a matter of "choice" but a matter of tragic necessity -- must be protected.

That is why the President implored Congress to add an exemption for the few tragic cases where selection of the procedure, in the medical judgment of the physician, is necessary to save the life of the mother or prevent serious injury to her health. He has made clear that he would sign a bill prohibiting this procedure if amended in this way.

He regrets that Congress, more interested in creating a political issue than solving a problem, has so far rejected this approach. But he will not agree to sign HR 1833 as enacted, because it demonstrates complete indifference to women's health.

How can the President support this awful procedure that many have compared to infanticide?

The President would allow use of the procedure only where necessary to save the life of the woman or protect her from serious harm.

The President has said that this procedure troubles him deeply

and that he would prohibit its use on an elective basis. To that end, he has urged Congress in the strongest terms to amend the bill so as to prohibit the procedure except in those few cases where it is necessary to prevent death or serious injury.

The life exception currently in the bill covers only cases where the doctor believes the mother will die. It fails to cover cases where the doctor believes the mother will suffer serious harm to health, including the loss of any ability to have children in the future. As a result, some women in desperate situations -- women who want their babies, but are advised by their doctors that this procedure is necessary to avert grave harm -- will not have access to the procedure. The President believes that denying access to the procedure in such cases would be the real inhumanity.

Why is this procedure ever necessary? Why can't doctors and women choose one of the other available options?

Let me start by saying that I am not a physician and I do not have medical training. The best I can do -- which is what the President did -- is to listen hard to what the medical community is saying on this question. That community broadly supports the continued availability of this procedure in cases where a woman's serious health interests are at stake. The American College of Obstetricians and Gynecologists, for example, has urged that doctors be able to use this procedure in appropriate circumstances. Both the President and the Congress have heard from doctors who believe that this procedure is the safest -- indeed, may be the only safe one -- in certain rare cases. They have also heard from women who were so advised by their doctors. The President would allow selection of the procedure only in these rare cases where it is necessary to protect a woman against death or serious injury. His decision is about protecting women's health. He believes that the best way to do is to allow doctors to use the procedure they deem most appropriate in cases where the life or the serious health interests of a woman are at stake.

Why does the President believe this is an issue of women's health?

In the past few months, the President has heard from women who desperately wanted babies, who were devastated to learn late in the pregnancy that their babies had fatal conditions, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best hope of preventing death or grave harm, including the loss of reproductive ability. For these women and others, this was not about choice. The babies were certain to perish before, during, or shortly after birth, and the only question was how much grave harm was going to be done to the woman.

These families were advised by their doctors that they terminate the pregnancy because of the danger posed to the mother's health. They were further advised that a procedure covered under HR 1844 was the safest means to do so. Had access to this procedure been denied, these women could have incurred serious injury. Yet it is questionable whether any of them would have fallen within the current "life" exception in the bill: the medical prognosis in each of their cases was probably not that clear cut. The President does not contend that this procedure is, today, always used to prevent death or serious injury. Some cases in

which the procedure is currently used do not meet the stringent standard he has proposed. But the President does not support such uses, does not defend them, and would support legislation banning them. He would allow this procedure only where necessary to prevent death or serious adverse health consequences.

What is a "partial birth" abortion? Are there different types of procedures that can be used?

PRINTER FONT 12_POINT_ROMAN_ITALIC

NOTE: White House staff should not attempt to provide detailed medical information. This is a complex issue. Reporters and others should be referred to medical experts.

FURTHER NOTE: White House staff should avoid being in the position of providing a blanket defense for this procedure or for every case when it is used. The President has made clear that the procedure as described troubles him deeply, and that he only supports its selection in cases where it would avert serious adverse health consequences to the woman.

PRINTER FONT 12_POINT_ROMAN

However, as background, the following can be said: "Partial birth abortion" is not a medical term. It is defined in the legislation as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." It is not recognized by doctors as defining a particular medical procedure. It is a political term invented for use in this and similar state legislation. Doctors and lawyers advise us that the term, as defined in the legislation, is so broad that it could apply to a number of different procedures. The American College of Obstetricians and Gynecologists has written: "HR 1833 employs terminology that is not even recognized in the medical community -- demonstrating why Congressional opinion should never be substituted for professional medical judgment."

The debate around HR1833 has focused on a procedure called "intact dilation and evacuation" or "dilation and extraction," performed rarely, usually after the 20th week of pregnancy.

There are several ways to terminate a pregnancy at this stage. Each has medical upsides and downsides in particular cases. Intact D and E was developed because the procedure itself may pose less risk to the mother than other options in some cases, and it may better ensure the future ability of the woman to have another child. The women the President spoke with, among others, all were advised by their physicians that the intact D&E would best preserve their lives and their health, including their future ability to have children.

What does the President mean when he says, "serious, adverse health consequences?" Does that mean if she is too young, or too old, or emotionally upset by pregnancy, she would have access to this procedure?

The President has made clear that when he says serious, adverse health consequences, that is exactly what he means. He is not talking about cases where this procedure is used for reasons such as the woman's age, emotional stress, financial hardship, or inconvenience. He is talking about cases like those of the women who stood beside him when he announced his veto of this legislation.

The charge that the President's proposed exemption would create a huge loophole, allowing the widespread use of this procedure, is simply not true. The President's proposed exemption would apply only where there is real, serious harm to health. Surely Congress, working with this Administration, can draft legislation

containing such a narrow exception. And if Congress did so, the courts would interpret that language as it is written. It is simply false to say that if Congress clearly drafts a narrow health exception, covering only select cases, that the courts will turn it into a broad one, covering everything.

Where does the National Conference of Catholic Bishops stand on the "late

-term" abortion issue?

You need to go to them for specific position, but they have said they are strongly opposed to late

-term abortions.

Where does the Catholic community, and particularly Catholic women, stand generally on this issue?

As leadership of the American Catholic church, the Bishops and Cardinals have clearly spoken on their opposition to this. I do not think it is appropriate for us to comment on how individuals in the Catholic community feel about this issue.

What is the White House's response to the Republican statements that they will make this an issue in the fall?

The President has clearly stated that the grounds for reaching this decision are both moral and legal. To that degree he has consulted broadly with religious leaders, Legal Counsel and Department of Justice on this matter. He is opposed to making this a political issue and to using these families as political pawns. Any discussion of this issue in political terms trivializes the difficult and emotional process these families must go through. It is regrettable that rather than attempt to find common ground, the Republican leadership has chosen to use this for political gain.

How might the National Conference of Catholic Bishops attempt to educate the Catholic community regarding the President's position?

You need to ask them.

On the April 11, 1996 edition of "Inside Politics," Helen Alvare of the National Conference of Catholic Bishops claimed that some of the women who were with President Clinton when he vetoed the bill had previously testified on Capitol Hill that they had not had "late

-term" abortions. What are the facts?

None of the women who were with the President testified that they had not had "late

-term" abortions. On the contrary, their testimonies tell their tragic stories -- how much they wanted children and how devastated they were to learn late in pregnancy of their doctors' recommendations to terminate in order to protect their health. All of them sought out any other possible solution, ways to save their babies, but their babies were certain to perish before, during, or shortly after birth. So in the end, they followed their doctors' advice in order to protect their health.

These women did say that these were not elective abortions. They also said that some of the descriptions that supporters of the ban were using to describe what happened to them were not true.

Many of them did say that they have historically opposed abortions, and would never have dreamt that they would have had to undergo an abortion.

Some who have supported the ban, including Members of Congress, have argued that some of these women would have been exempted

from the ban because of the life exception or because their procedure is not included in the scope of the bill's definition. These women recognize that there is no guarantee that they would be exempted from the ban because though many of them faced the possibility of death and grave harm -- they did not all face certain death. This ban would discourage doctors from doing what is best for their patient because they would fear the consequences.

Further, it is unclear exactly what procedures would be included in the scope of the ban because no specific procedure is named. As a result, any one of these women could have been denied access to the safest medical procedure for them if this bill was enacted into law.

What is the American Medical Association's position on H.R. 1833? The AMA's Board of Trustees has said that it will not take a position on H.R. 1833. I would note that the California Medical Association has expressed opposition to bill, however.

In addition, the American College of Obstetricians and Gynecologists, the American Medical Women's Association, and the American Nurses Association have all said that they support the President's decision to veto the legislation because it would supersede the medical judgment of appropriate providers. There are also individual physicians that have written letters to the editor opposing the legislation.

Why does President Clinton believe he is still the best person to serve the Catholic community, and the United States, as President?

Helen Alvare of the National Conference of Catholic Bishops has made the claim that late

-term abortionists who have used this procedure say that the majority of cases are purely elective. How would you respond to her claim?

Yes, I have heard her say that. I would only say that there are not accurate records to document exactly when this procedure is used, but we do know that there are cases when this procedure has been used to preserve the life of the woman or to avert serious adverse consequences to her health. We have heard from these women ourselves.

The President is not defending every situation when this procedure might be used, but he is defending those cases when serious harm to a woman's health is a risk. Surely Congress,

working with the Administration, can write legislation making clear that serious harm to health means just that-

-not depression
as some have suggested.

Helen Alvare of the National Conference of Catholic Bishops has made the claim that medical evidence and common sense tell us that this procedure is not necessary to protect a woman's health. Can you respond to that claim?

I would first like to say that because I am not a doctor, I do not feel comfortable talking about what common sense tells about

a woman's health. I dare say that we ought not to rely on anyone's common sense on such a serious issue. In terms of the medical evidence, I would like to say that I have heard her quote a doctor who performs abortions as saying that he would dispute any statement that this is the safest procedure to use. It is my understanding that he had made that statement long ago, and since has said many times that he made it with inaccurate information about the procedure. He has since said many times, indeed his written testimony to the contrary was printed in the Record, that there are cases where this is the safest procedure for a woman. Other doctors have said the same-- doctors who refer these women for the abortion, doctors who have observed the procedure or read about it, and doctors who have performed it..

What is President Clinton's track record on women's issues? President Clinton has a superior record on women and family issues -- from his appointments throughout the Administration to his policies that help women thrive in the workplace and at home. The President's Administration has initiated strong, practical measures to improve women's economic and educational opportunities, to provide quality health and child care, to prevent violence on the streets and at home and to make sure that women's voices are heard at every level of our government. More than 40 percent of the President's appointments are women, the highest percentage ever and several of his appointments are firsts for women, including Evelyn Lieberman as the White House deputy chief of staff, Janet Reno as Attorney General, Hazel O'Leary as Energy Secretary and Sheila Widnall as Secretary of the Air Force.

The President's pro

-woman/pro

-family record is extensive, including the first bill he signed as President, the Family and Medical Leave Act, creating the Child Care Bureau, expanding tax breaks for working families, passing the Violence Against Women

Act, expanding access to capital for women entrepreneurs, ensuring women's health research-

-including for breast cancer, and promoting reproductive health services.

...
PARTICIPANTS IN MEETING WITH THE PRESIDENT BEFORE
VETO OF H.R. 1833
April 10, 1996

Following are brief summaries of the stories that will be told to the President today by families who have made the difficult decision to terminate wanted pregnancies using the procedure banned in H.R. 1833.

THE COSTELLOS: COREEN, JIM, CARLYN AND CHAD; AGOURA, CALIFORNIA. Coreen Costello had already gone through two easy deliveries of her children-

-Carlyn who is now six years old and Chad who is eight-

-when she became pregnant with her third. She and her husband Jim planned a home delivery for their expected daughter, Katherine Grace.

In Coreen's seventh month of pregnancy, a routine ultra

-sound

revealed that the fetus suffered from a rare and lethal combination of neuromuscular disorders. In addition, the fetus was wedged against Coreen's pelvis and amniotic fluid was pooling in Coreen's uterus, putting dangerous pressure on her lungs and other organs. The Costellos' doctors told them that Katherine Grace could not survive, and that the condition of the fetus made giving birth very dangerous for Coreen. Several specialists told her that it was impossible to deliver vaginally without causing uterine rupture, and that the medical risks of a caesarian section in her condition were also too great. After long and painful thought, Coreen and her husband Jim decided that she would have an abortion to protect her health and potentially save her life.

In her testimony to Congress, Coreen said; "There was no reason to risk leaving my children motherless if there was no hope of saving Katherine." She has said separately that: "I will probably never have to go through such an ordeal again. But other women, other families, will receive devastating news and have to make decisions like mine. Congress has no place in our tragedies." Coreen is pregnant again and is due in June.

MARY

-DOROTHY AND BILL LINE; SHERMAN OAKS, CALIFORNIA.

The Lines were expecting their first child. Then, late in Mary

-Dorothy's second trimester of pregnancy, she and her husband Jim were told that their expected son had a fatal condition: an advanced case of hydrocephaly (excessive fluid in the brain), no stomach, and no ability to swallow. Their doctors told the Lines that he might die in utero. When fetal demise occurs in utero, poisons can be introduced into the woman's bloodstream, possibly causing a woman's blood clotting mechanisms to shut down, leading

to uncontrollable bleeding. In addition, the abnormal size of the baby's head due to hydrocephaly made normal labor very dangerous because of the risk of rupture to her cervix and uterus. Several specialists recommended that they terminate the pregnancy.

Mary

-Dorothy has said that; "...[m]any people do not understand the real issue -- it is women's health; not abortion and certainly not choice. We must leave decisions about the type of medical procedure to employ with the experts in the medical community and with the families they affect. It is not the place for government." The Lines are again expecting a child in September.

VIKKI STELLA; NAPERVILLE, ILLINOIS.

At 32 weeks of pregnancy, Vikki and Archer Stella were excited about the expected birth of their first son. After a routine ultra

-sound, the fetus was diagnosed with nine major anomalies, including a fluid

-filled cranium with no brain tissue. According to her doctor, this fatal condition, in conjunction with Vikki's diabetes, made options that might have worked for other women,

such as caesarian section or prolonged labor, extremely dangerous for Vikki. The Stellas, along with their doctor, made the difficult decision for her to undergo the procedure described in H.R. 1833 to protect Vikki's health and life.

Vikki has said that "[t]his wasn't a choice. There were no choices. My child was going to die, and there was nothing I could do to stop that. But my kids needed me and this was the safest procedure." The Stellas had two daughters at the time of this tragedy-

-Lindsay is eleven years old and Natalie is seven-

-who were excited to have a younger brother. Eventually, Vikki became pregnant again, and in December she gave birth to their son, Nicholas.

TAMMY AND MITCHELL WATTS; TEMPE, ARIZONA.

Tammy and Mitchell Watts were excited about the anticipated birth of their first child, a girl. At a routine ultra

-sound in the seventh month of Tammy's pregnancy, the Watts were devastated to learn that the fetus suffered from trisomy

-13, a severe chromosomal disorder which affected all her major organs and functions. Medical specialists told the Watts that the fetus would not survive, and that she would likely die in utero. This, as with Mary

-Dorothy Line, could lead to release of poisons into her bloodstream or hemorrhaging. In addition, Tammy was also at risk for cervical rupture.

Tammy has said; "...after our experience, I know more than ever

that there is no way to judge what someone else is going through. Until you've walked a mile in my shoes don't pretend to know what this is like for me." The Watts decided to protect Tammy's health and minimize their expected daughter's suffering.

CLAUDIA AND RICHARD ADES; LOS ANGELES, CALIFORNIA

Claudia and Richard were expecting the birth of their first child-

-they had sent out shower invitations and were picking out names for a little boy-

-when tests late in the second trimester revealed that their expected son suffered from trisomy

-13. Like the Watts', they were told by many medical specialists that the condition of the fetus was fatal and that in utero demise was very likely, posing a serious risk to Claudia's health. After consulting with their doctors, family friends and clergy, Claudia and Richard made the difficult decision to terminate the pregnancy and protect Claudia's health. They are now planning to adopt a child.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 20-APR-1996 09:14:27.77

SUBJECT: here they are

TO: Todd Stern (STERN_T) (WHO)

READ: 20-APR-1996 09:14:37.59

TEXT:

PRINTER FONT 12_POINT_ROMAN

TALKING POINTS ON H.R. 1833

? The President vetoed H.R. 1833 because the bill, which prohibits a certain kind of abortion procedure, fails to protect women from serious threats to their health, as both the Constitution and humane public policy require.

? The procedure described in the bill troubles the President deeply. He does not support use of that procedure on an elective basis. He would allow it only where necessary to save the life of the mother or prevent serious injury to her health.

? This bill went too far because it would ban use of the procedure even when it is the only or best hope of saving the woman's life or averting a serious threat to her health, including her ability to have children in the future.

? Before vetoing this bill, the President heard from women who desperately wanted babies, who were devastated to learn that their babies had fatal conditions, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best hope of preventing death or grave harm, including the loss of reproductive ability. For these women and others, this was not about choice. These babies were certain to perish before, during, or shortly after birth, and the only question was how much grave harm was going to be done to the woman.

? Criminalizing use of the procedure in such cases, where women and their families must make a tragic choice, poses a danger of grave harm to women. A ban of this kind, aside from violating the Constitution, would be the true inhumanity.

? That is why the President, by letter dated February 28, implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the physician, is necessary to preserve the life of the woman or avert serious adverse consequences to her health. A bill amended in this way would have struck a proper balance, remedying the constitutional and human defect of H.R. 1833.

? The charge that the President's proposed exemption would create a huge loophole, allowing the widespread use of this procedure, is simply not true. The President's exemption would apply only when there is serious harm to health. Surely Congress, working with this Administration, can write legislation making clear that serious harm to health means

just that -- that it doesn't include, as some have suggested, youth, low income, or inconvenience. Attacks such as this trivialize profoundly tragic situations. All one needs to do is to listen to some of the women who have

had this procedure to understand what kind of harm the President is talking about.

? The President will not sign a bill showing, as this one does, total indifference to the health of women. He will sign a bill amended to protect women from serious harm by allowing this procedure in rare cases. He regrets that Congress, more interested in creating a political issue than solving a problem, has so far rejected this approach.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-APR-1996 13:39:33.08

SUBJECT: executive privilege

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:22-APR-1996 10:16:04.67

TEXT:

Have you decided whether we can give those memos on executive privilege to Podesta?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 21-APR-1996 13:58:59.95

SUBJECT: meeting

TO: Cheryl L Sweitzer (SWEITZER_C) (WHO)

READ: 22-APR-1996 09:39:59.45

TEXT:

Can we set up a meeting on Friday afternoon (anytime after 3:00) for: Jack, Bruce, Kathy, me, Bob Bennett, Amy Subrin, David Strauss, and Geof Stone. (If you don't have the tel. numbers for the last two, I can get them for you.) Many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 21-APR-1996 13:37:40.47

SUBJECT: RE: headwaters

TO: Elisabeth Blaug (BLAUG_E) (CEQ)

READ: 22-APR-1996 09:26:08.12

TEXT:

yes

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-APR-1996 13:54:15.49

SUBJECT: products statement

TO: Jeff P. Dailey (DAILEY_J) (WHO)

READ:21-APR-1996 13:57:26.46

TEXT:

I am attaching the latest draft of the products liability veto message. I must emphasize, however, that this is very much a draft. We still have not gotten the bill, so people have not really focused on the veto message. Please be careful about using anything in it.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:21-APR-1996 13:52:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Elena Kagan

TEXT:

PRINTER FONT 12_POINT_COURIER

To the House of Representatives:

I am returning without my approval H.R. 956, the so

-called

Common Sense Product Liability Legal Reform Act of 1996.

I support real common sense product liability reform at the Federal level. To deserve this label, however, legislation must adequately protect the interests of consumers harmed by defective products, in addition to the interests of manufacturers and sellers. Further, legislation must respect the important role of the States in our Federal system. Congress could have passed legislation, appropriately limited in scope and balanced in application, meeting these tests. Had Congress done so, I would have signed the bill gladly; were Congress to do so now, I would be delighted. But Congress instead chose to pass legislation unfairly weighted against consumers and unduly infringing on the States, thus diserving the goal of real common sense reform.

H.R. 956 represents an unwarranted intrusion on state authority, in the interest of shielding manufacturers and sellers of harmful products. Tort law traditionally has been a matter for the States, rather than for Congress. The States have handled this responsibility well, serving as laboratories for new ideas and making needed reforms. This bill unduly interferes with that process -- and does so in a way that peculiarly disadvantages consumers. As a rule, this bill displaces state law only when that law is more favorable to consumers; it allows state law to remain in effect when that law is more helpful to manufacturers and sellers. I cannot accept a law that rejects state authority in the tort field so as to tilt the legal playing field against consumers and in favor of manufacturers and sellers.

Apart from the general structure of the bill, specific provisions of H.R. 956 unfairly disadvantage consumers. These provisions could prevent even horribly injured persons from recovering the full measure of their damages. And these provisions would encourage the worst kind of conduct on the part of manufacturers and sellers, such as knowingly introducing

injurious products into the stream of commerce.

In particular, I object to the following provisions of the bill, which subject consumers to too great a risk of harm from defective products:

First, as I previously have stated, I oppose wholly eliminating joint liability for noneconomic damages (most notably, pain and suffering), because such a change would prevent many persons from receiving full compensation for injury. When one wrongdoer goes bankrupt -- as companies that sell or

manufacture harmful products often do -- the other wrongdoers, and not the innocent victim, should have to shoulder its part of the judgment. Traditional law accomplishes just this result. In contrast, this bill would relieve other wrongdoers of their obligation to pay the bankrupt company's part of the noneconomic loss, thus leaving the victim to bear these damages on her own. So, for example, the victim of asbestos, a breast implant, or an intra

-uterine device would have gone partly uncompensated under this bill, because in cases involving these products one wrongdoer was bankrupt and others would have had no obligation to pick up the bankrupt company's portion of the victim's noneconomic harm.

What makes this provision all the more troubling is that it severely and unfairly discriminates against the most vulnerable members of our society. Because it applies to noneconomic, but not to economic damages, it most deeply cuts into the damage awards of people without large amounts of lost income. Thus, this provision disproportionately affects the elderly, the poor, and nonworking women. There is no reason for this kind of discrimination. Noneconomic damages are as real and as important to victims as economic damages. We should not create a tort system in which people with the greatest need of compensation stand the least chance of receiving it.

Second, as I also have stated, I oppose arbitrary ceilings on the amount of punitive damages that may be awarded in a product liability suit, because they endanger the safety of the consuming public. The purpose of punitive damages is to punish and deter egregious conduct, such as the deliberate manufacture and sale of defective products. Capping punitive damages increases the incentive to engage in such misconduct; it invites those companies willing to put economic gain above all else simply to weigh the costs of wrongdoing against potential profits. The provision of the bill allowing judges to exceed the cap if certain factors are present helps to mitigate, but does not cure this problem, given the clear intent of Congress, as expressed in the Statement of Managers, that judges should use this authority only in the rarest of circumstances.

In addition, I am concerned that the Conference Report fails to fix an oversight in Title II of the bill, which limits actions against suppliers of materials used in devices implanted in the body. In general, Title II is a laudable attempt to ensure the continued supply of materials needed to manufacture life

-saving medical devices, such as artificial heart valves. But as I believe even many supporters of the bill agree, a supplier of materials who knew or should have known that the materials, as implanted, would cause injury should not receive any protection from suit. Title II's protections must be clearly limited, as I

hope and believe was Congress's intent, to non

-negligent
suppliers.

These defects alone would justify a veto, as I have stated before. But Congress, not content with a bad bill, enacted yet a worse bill, by taking several steps back from the version passed in the Senate and toward the one approved by the House.

First, the Conference Report expands the scope of the bill, inappropriately applying the limits on punitive and noneconomic damages to negligent entrustment actions -- lawsuits, for example, against a gun dealer who knowingly sells a gun to a convicted felon, who then uses it to shoot someone, or against a bar owner who knowingly serves a drink to an obviously inebriated customer, who then drives drunk and causes death or injury. I believe that lawsuits such as these should go forward unhindered. So too do such groups as Mothers Against Drunk Driving and the Coalition to Stop Gun Violence, a coalition of 44 organizations dedicated to the reduction of gun violence. Congress should not have made this last

-minute change in the scope of the bill.

In addition, the Conference Report makes certain changes that though sounding technical, may completely cut off a victim's ability to sue a guilty manufacturer. The Report deletes a provision that would have stopped the statute of limitations from running when a bankruptcy court issues the "automatic stay" that prevents lawsuits from being filed during bankruptcy proceedings. The effect of this change will be that some persons injured by companies that have entered bankruptcy proceedings will lose any meaningful opportunity to bring valid claims. Given the frequency with which companies sued for manufacturing defective products go into bankruptcy -- think again of manufacturers of breast implants or asbestos or intra

-uterine devices -- this seemingly legalistic change may have dramatic consequences.

Similarly, the Conference Report reduces the statute of repose from twenty years to a maximum of fifteen years (and less if states so provide), and applies the statute to a much wider range of goods, including handguns. This change, which prevents a person from bringing suit against a manufacturer of an older product even if the product has just recently caused injury, also will preclude many meritorious lawsuits.

Consider two hypothetical cases, as a demonstration of how these provisions operate in combination to prevent injured people from receiving the compensation to which they are entitled.

In the first, the mother of a boy killed in a driveby shooting sues the gun dealer who knowingly sold a handgun to a person formerly convicted of a crime of violence. Under current

law in most states, the dealer (assuming, as is commonly true, that the shooter himself has no money) would pay damages equal to all the mother's economic and noneconomic damages, regardless of how these damages were allocated as between the dealer's and the shooter's misconduct; perhaps the dealer also would pay punitive damages for the egregious nature of his act. Under this bill, by contrast, the mother would have less chance of receiving an award of punitive damages sufficient to deter future misconduct. Still worse, she would receive no damages for any of her noneconomic loss, including pain and suffering, that the jury attributed to the shooter. Because the majority of her damages would arise from pain and suffering (not economic injury) and because the jury would have allocated a substantial part of this amount to

the judgment

-proof shooter, her total damage award would be a fraction of what current law would give her. And if the gun causing the injury were an old model, thus triggering the statute of repose, the mother would receive no damages whatsoever.

In the second case, a woman suffering severe injury from a breast implant sues both the manufacturer of the implant and the supplier of its silicone gel, both of whom knew that the product could cause injury. Under current law, both wrongdoers would be liable for the harm the woman suffered; more, if one wrongdoer could not pay its portion of the judgment, the other would make up the difference. But this would not be true under H.R. 956. If this bill were enacted, even the best case scenario would be appalling: the supplier, though knowing its product posed danger, would be immune from suit, and the portion of noneconomic (pain and suffering) damages allocated to it would be lost to the woman. In addition, the manufacturer, no matter how intentional its decision to implant a harmful product, might benefit from the bill's cap on punitive damages. But there would be a worse case scenario, which very well could happen. If the manufacturer of the implant entered bankruptcy, no defendant would be left to pay the woman's damages, let alone to make a punitive award deterring future misconduct. One wrongdoer would have immunity, the other insufficient resources; as a result, the innocent injured woman would bear the full cost of the harm. In short, a woman who under current law would receive full compensation and perhaps punitive damages, under H.R. 956 would get absolutely nothing.

This example, indeed, is more than a hypothetical. There are identifiable injured women today facing situations that are substantially similar to the one I have just described. Their prospects of recovering anything at all for the harm caused by ruptured implants would decrease dramatically if H.R. 956 became law.

I cannot believe that even the supporters of the Conference Report would sanction these results. Real people with real

injuries cannot be left to suffer in this fashion; more, the companies that cause these injuries cannot be left, through lack of a deterrent, to engage in misconduct. I therefore must return the bill that has been presented to me. There is nothing "common sense" about its "reforms" to the law of product liability.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-APR-1996 11:05:59.82

SUBJECT: RE: welfare

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:22-APR-1996 13:33:06.16

TEXT:

she's supposed to get back to me with a date certain.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-APR-1996 10:44:51.29

SUBJECT: headwaters

TO: Elisabeth Blaug (BLAUG_E) (CEQ)

READ:22-APR-1996 10:58:51.05

CC: Dawn Chirwa (CHIRWA_D) (WHO)

READ:22-APR-1996 11:40:06.94

TEXT:

I'm free all morning tomorrow, as is Dawn.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-APR-1996 10:20:12.00

SUBJECT: RE: weird request

TO: Erin Kelly (KELLY_E) (WHO)

READ:22-APR-1996 10:20:45.22

TEXT:

I'd be delighted assuming this doesn't violate any arcane rules about what I can do in my off-hours (which I imagine it doesn't). I'll check with Kathy Whalen and get back to you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 22-APR-1996 11:37:36.25

SUBJECT: you're on

TO: Erin Kelly (KELLY_E) (WHO)

READ: 22-APR-1996 11:38:03.73

TEXT:

kathy has given the OK.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 22-APR-1996 11:50:19.33

SUBJECT: headwaters

TO: Elisabeth Blaug (BLAUG_E) (CEQ)

READ: 22-APR-1996 11:53:58.28

CC: Dawn Chirwa (CHIRWA_D) (WHO)

READ: 22-APR-1996 14:13:56.79

TEXT:

me too.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-APR-1996 10:46:33.28

SUBJECT: welfare

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:22-APR-1996 10:47:27.27

TEXT:

I just spoke to Anna Durand from HHS who says that the program people are continuing to work on guideline language. I asked her to light a fire under them. She agreed.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 22-APR-1996 10:21:35.54

SUBJECT: ethics advice

TO: Kathleen M. Whalen (WHALEN_K) (WHO)

READ: 22-APR-1996 10:23:21.13

TEXT:

Is there any problem with agreeing to do this? Thanks.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 22-APR-1996 10:11:00.00

ATT BODYPART TYPE: B

ATT CREATOR: Erin Kelly

ATT SUBJECT: weird request

ATT TO: Elena Kagan (KAGAN_E)

TEXT:

Elena, This is a weird request so please don't worry about saying no if you don't want to do what I am going to ask. My fiance is the editor in chief at the Catholic Law School's law review. He is in the middle of deciding who is going to be published and there is a student who spoke with Judge Mikva once last year (he spoke at Catholic I guess) about presidential signing statements and their role in interpreting statutes. This student is looking for an expert reader to do two things -- one to make sure she has accurately characterized the law and two to give her ideas about other things she should consider. She is going to be published, so you wouldn't have to do any of the really gross rewriting, she is just looking for kind of a consultant. I thought since she went to Chicago for undergrad (connection number one), you clerked for the Judge (number two) and you are in the White House Counsel's office you might be a good person for her to ask. Let me know what you think and I will have her call you if you think OK. Thanks.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-APR-1996 13:44:29.59

SUBJECT: products

TO: Marilyn Yager (YAGER_M) (WHO)

READ:22-APR-1996 14:51:08.25

TEXT:

could you get me a copy of the materials that were given out at the women's meeting we attended? many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:23-APR-1996 14:53:27.97

SUBJECT: RE: Thanks for looking at this

TO: Seth E. Masket (MASKET_S) (WHO)

READ:23-APR-1996 14:53:34.53

TEXT:
this looks great.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:23-APR-1996 19:00:00.00

SUBJECT: Receipt Notification

TO: WEINSTEIN_P (OPD)

READ:24-APR-1996 09:51:14.72

TEXT:

This is a Read Receipt Notification for:

Message Title:	Campaign Finance Reform
Addressee:	KAGAN_E
Date Sent:	23-Apr-1996 05:34pm
Date Read:	23-Apr-1996 07:00pm

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:23-APR-1996 15:45:05.44

SUBJECT: RE: your air quality

TO: Erin Kelly

(KELLY_E) (WHO)

READ:23-APR-1996 15:57:17.64

TEXT:

many many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 23-APR-1996 08:49:01.47

SUBJECT: meeting

TO: Cheryl L Sweitzer (SWEITZER_C) (WHO)

READ: 23-APR-1996 09:14:00.57

TEXT:

what did jack say about having a meeting friday?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 23-APR-1996 17:00:22.13

SUBJECT: weekend

TO: Ron Klain

(KLAIN_R) Autoforward to: Remote Addressee

READ: NOT READ

TEXT:

It turns out I am going to be around this weekend. Are you folks still up for doing anything?

PS: Have you gotten any feedback re my lunch with Jamie? Do you know anything else I should be aware of?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 24-APR-1996 11:51:59.89

SUBJECT: camp fin mtg

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)

READ: 24-APR-1996 12:00:54.43

TEXT:

we should have someone from the communications office there. what about
inviting Vicky Radd?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:24-APR-1996 17:39:42.95

SUBJECT: free tv

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)

READ:24-APR-1996 18:13:42.01

TEXT:

I just read the material you sent me. I think Reed Hundt needs a new jokewriter. More to the point, IS the FCC going to have this hearing? When? And if you don't know, whom should I call?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 24-APR-1996 15:56:27.65

SUBJECT: english-only

TO: Stephen C. Warnath (WARNATH_S) (OPD)

READ: 24-APR-1996 16:02:46.52

TEXT:

Could you keep me informed of all english-only goings-on, meetings, etc? I've taken over the issue from Marvin Krislov. Many thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:24-APR-1996 13:32:36.71

SUBJECT: RE: fyi - OMB needs Eng. only sign off asap

TO: Stephen R. Neuwirth (NEUWIRTH_S) (WHO)

READ:24-APR-1996 13:35:44.30

TEXT:

oops.